

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 2-27-02.
 - b. The request was received on 7-19-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFAs
 - c. EOBs
 - d. Example EOBs
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to Request for Medical Dispute Resolution
 - b. HCFA
 - c. EOBs
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 8-27-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 8-28-02. No fourteen (14) day response was noted in the dispute packet. The Carrier's three (3) day response is reflected as "Exhibit II" in the Commissions case file.
4. Notice of A letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Position statement taken from Table of Disputed Services:

"We have provided the Insurance Co [sic] with supporting documentation to substantiate the medical necessity and cost of Bone Growth Stimulator and no request for a negotiated or Reduced [sic] purchase price was made by the carrier. This item was pre-authorized and there is nothing in TWCC Rule guideline that States [sic] that we the provider has [sic] to supply a cost invoice for payment. We are now requesting the remaining to Be Paid In Full [sic] with accruing [sic] interest."

2. Respondent: Letter dated 7-23-02:

“1. The above referenced health care provider billed (Carrier) \$5,000.00 for the purchase of a ‘Osteogenesis Stimulator’ of which \$3,200.00 was paid per fair and reasonable determination, in accordance with the rules and guidelines adopted by the Texas Workers Compensation Commission....4. The health care provider has submitted examples of bills paid by a subjectively selected sample of insurance carriers who have reimbursed them at 100% of their charges. However, they have refused to provide an objective selected sample of insurance carriers who have not reimbursed them at 100% of their charges, and instead have reimbursed them at a lesser fair and reasonable rate. 5. No descriptor exists for a Osteogenesis Stimulator, in either the 1991 or 1996 edition of the Texas Workers Compensation Commission’s Medical Fee Guideline. The health care provider has not negotiated an agreed to reimbursement with (Carrier). A fair and reasonable reimbursement was remitted based upon (Carrier’s) usual and customary reimbursement.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 2-27-02.
2. The carrier denied the billed services as reflected on the EOBs as, “M – NO MAR SET BY TWCC-REDUCED TO FAIR AND REASONABLE ALLOWANCE WITHOUT SUPPLY HOUSE INVOICE.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
2-27-02	E0748-NU	\$5000.00	\$3,200.00	M	DOP	MFG GI (VIII) (A); HCPCS descriptor	The “NU” modifier is not recognized in the Commission’s ’96 MFG. For this reason, MRD is unable to determine proper reimbursement for the DME in dispute. Therefore, no additional reimbursement is recommended.
Totals		\$5,000.00	\$3,200.00				The Requestor is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 26th day of March 2003.

Lesa Lenart
Medical Dispute Resolution Officer
Medical Review Division

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